



PATENT
ATTORNEY DOCKET NO.: IMARX1360-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Evan C. Unger	Art Unit:	1618
Serial No.:	10/622,027	Examiner:	James William Rogers
Filed:	July 16, 2003	Confirmation Number	1650
Title:	SOLID MATRIX THERAPEUTIC COMPOSITIONS		

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


REPLY TO THE RESTRICTION REQUIREMENT

Sir:

In response to the Office Action mailed August 25, 2006, the Applicant respectfully submits the following elections and remarks.

CERTIFICATION UNDER 37 CFR §1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on October 24, 2006, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Ramona DeRyan

With respect to the Restriction Requirement, the Applicant elects, with traverse, **Group I**, claims **1-4, 6-20, 23-28, and 39-45** drawn to a therapeutic composition.

The traversal is being made on the grounds that the restriction is unnecessary in this case, as claims of Groups I and II are not directed to distinctly different inventions. Indeed, the claims of all the groups are drawn either to therapeutic compositions comprising solid porous matrices or to methods of fabricating the same. It is respectfully submitted that these differences between the two groups are such that examining all the claims will not impose an undue burden on the Examiner. Accordingly, there is no need for the restriction.

Further, to comply with the requirement to elect species, the Applicant elects, with traverse, the following:

- (a) as a specific therapeutic agent, **taxol**;
- (b) as a specific surfactant, **PEG 400**; and
- (c) as a specific physical state, **solid**.

Each of the above-identified elections of species reads on claims 1-4, 6-20, 23-28, and 39-45.

The traversal of the election of species requirement on the following grounds. MPEP §803.02(a) makes it improper to make a restriction requirement if the species are sufficiently few or so closely related (unity of the invention exists) that a search and examination can be made without serious burden on the examiner. .

It is respectfully submitted that all of the conditions for finding the unity of invention are present. With respect to the therapeutic agent, all of the species submitted in the application have at least one feature in common, i.e., all are capable of providing a beneficial therapeutic effect when administered to a patient. As to the surfactants, all of

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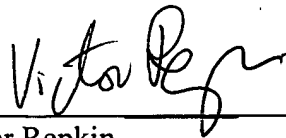
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the species submitted in the application have at least one feature in common, i.e., all are capable of reducing surface tension on the vesicle/water interface. The number of the species is not unreasonably large and the examination of such number of compositions should not be burdensome. The same applies to the species of the physical state, i.e., only two species of the physical state, solid and liquid, are at issue; thus the examination is not considered to be burdensome.

In view of the foregoing, reconsideration and withdrawal of the restriction and the election of species requirements are respectfully requested. Should any questions remain in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

A check in the amount of \$60.00 is enclosed as payment for the one-month Petition for Extension of Time fee. No other fee is believed due with the filing of this Response. However, the Commissioner is hereby authorized to charge any other fees that may be required by this paper or credit any overpayment to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A duplicate copy of the Transmittal Sheet is enclosed.

Respectfully submitted,



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Date: October 24, 2006

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